

ORIGINAL

FORM TO BE USED BY A PRISONER IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §1983

05-170

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

Michael Anthony Holland

(Enter above the full name of the plaintiff in this action)



V.

Department of Corrections } Sgt. Bambi Thomas,
Delaware Correctional Center } C/o Newton, % Boston
Warden Thomas Carroll } % Loydd

(Enter above the full name of the defendant(s) in this action)

I. Previous lawsuits

A. Have you begun other lawsuits in state or federal courts dealing with the same facts involved in this action or otherwise relating to your imprisonment?
YES [☒] NO [☐]

B. If your answer to A is yes, describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit

Plaintiffs ~~Michael A. Holland~~ Michael A. Holland

Defendants C.M.S./F.C.M. Stan Taylor and
BoB Davenport R.N.

2. Court (if federal court, name the district; if state court, name the county)

U.S.D.C. New Castle County

3. Docket number Civil Docket For Case 03-CV-53

4. Name of judge to whom case was assigned Sue L. Robinson

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

Case is closed, but filed Rule 60 and was returned stating for me to file to their attorneys.

6. Approximate date of filing lawsuit 1-16-03

7. Approximate date of disposition 2-11-04

- II. A. Is there a prisoner grievance procedure in this institution? Yes [☒] No []

- B. Did you present the facts relating to your complaint in the state prisoner grievance procedure? Yes [☒] No []

- C. If your answer is YES,

1. What steps did you take? I filed Grievances on all issues and not nothing has been done.

2. What was the result? The Grievance Officer forward grievances to Captain Segers yet to be resolved.

- D. If your answer is NO, explain why not _____

- E. If there is no prison grievance procedure in the institution, did you complain to prison authorities? Yes [] No [] I still complained to prison authorities.

- F. If your answer is YES,

1. What steps did you take? I made copies of all my dockements and forewarded them to Administations at D.C.C.

2. What was the result? Nothing has been done. I was sent to Pre-Trial S.H.U. I am a Detainee.

III. Parties

(In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff Michael Anthony Holland
 Address 1181 Paddock Rd Smyrna, Del. 19977

(In item B below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions, and place of employment of any additional defendants.)

B. Defendant Thomas Carroll is employed as Warden
at Delaware Correctional Center

C. Additional Defendants Sgt. Bambi Thomas, C/o Newton,
C/o Boston, C/o Lloyd all are Correctional
Officers at the Delaware Correctional Center
1181 Paddock Rd Smyrna, Del. 19977

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places.

Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph.

Use as much space as you need. Attach extra sheet if necessary.)

1st Violation of Constitutional Rights 5th, 8th, and 14th Amend.
Conditions of my confinements and treatment as a Detainee.
Equal Protection of the Laws are being Violated.
On 11-05-04 Sgt. Bambi Thomas WAS collecting Food-Trays
from D-Block and collecting Razors that are handed out to
you from C/o's. I was shaving when Sgt. Thomas asked for my
Razor, I said I wasn't finished³ Shaveing and come back in two mins.
She than said you disobeying a direct order, I was locked in my
cell and Sat Thomas Spaved me with mace to my face through

Cont. pg 3rd~~Cont. pg 2nd~~~~Cont. pg 1st~~

the Food-Tray Flap than closed flap, left me in my cell and came back approx 20 mins. later Yo Newton was with Sgt. Thomas when I was sprayed Yo Newton put the flap down and back up and left D-Wing in Bld 18. Then Sgt. Bambi Thomas and Sgt. Philpips, and Sgt. Stevenson and Yo Newton, Yo Boston, Yo Loydd took me to I.S.O. (the Hole) and stripped me to my boxers and left me there. I asked for my shoes that Sgt. Thomas took from me, said I wasn't allowed to have my shoes, asked for my Bible also from each officer that was stated above and they refused. There is a memo on each door of I.S.O. stating allowable items. There is allowed sneakers 1 pair with NO Laces and 1 Bible or Quran. Three days in a row I was denied my Lunch tray from Sgt. Bambi, Yo Newton, Yo Boston, and Yo Loydd. Officer Evans was present two of these days so was Officer Donald Daddato they were witnesses to this they both stated they have nothing to do with this. Asked Yo Donald Daddato if he would testify (he said I can not tell a lie). Finally on the Fourth day Sgt. Philpips was notified due to all inmates on C-Wing of Bld 18 held their trays and refused to give up their trays until I was fed. These above Yo's said I was a Muslim and I was on Ramadan. I said I was a Catholic Christian and it's on file with Father Jim Jackson whom is a Catholic Priest here at D.C.C., Sgt. Philpips then made Yo Newton go to the Kitchen in Bld 20 and get me a Food Tray. Also was left in I.S.O. for 15 days without any shoes nor my Bible. This was very cold on my feet due to it being in the month of November. Violation of my 1st Amend. for

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Cont. pg 3-4

denying me my Bible. Also Cruel and Unusual Punishment. This all took place from 11-05-04 through 11-20-04.

2nd claim I been denied Legal Calls to my attorneys and also my Legal-Mail I recieved while in I.S.O. has been lost. I had to sign for it and was aloud to read it and than had to give it back to % Gonzellas, Victor and he stated he forewarded it to Sgt. Carpenter to be put up in Bld 20 in a slot for mail until I come out of I.S.O., now %'s in Bld 20 have access to read my Legal-Work. This was a letter from U.S.D.C. pertaining to my case with my medical suit that was sent to me on 2-11-05 to have me file to each individuals attorneys. I can't do that now because my letter has been lost from the %'s on ~~4-12~~ 4-12 shf. above stated Officers. I've been in Bld 18 Pre-Trial S.H.U. for 6 months and have been denied Legal Calls the whole time I've been here on D-Wing.

3RD Claim Also been confined in conditions of my incarceration as to mentally distuebing and very teamatic sistutations. I'am confined to my cell for 23 hours a day without nothing to do. There are only 3 days a week I come out of my cell for a period of 45mins. of Recreational purpouses and 15 min. showers. The othe 4 days of the week I'am locked in a cell by myself For 24 Hours a day with nothing to read nor T.V. nothing. IF I was to purchase a T.V.

Cont. 4-5

cont. 3rd claim for \$199.⁰⁰ for a 13' T.V. sold through commissary I'am not permitted, also no access to books to read, only if they are mailed from the Bookstore only and I'am not this fortunate to do so. As for tramatic, I've done wittnessed one Detainee slash his throat wide open while he barricaded himself in his cell. Another Detainee slashed his wrist on another occasion, the last tramatic thing I wittnessed was another Detainee hung himself and was found dead in his cell, all of this within 3 1/2 months. Thier minds are not stable because all we have to do is think about how the outcome of our Legal matters are going to be. We have nothing, some are able to afford Radios with No speaker for \$48.⁰⁰ and are forced to buy headphones for \$20.²⁰, not all are able to be so fortunate.

4th claim Inadaguate Staffing: Gaurds here at the D.C.C. are made to work double shifts for days on end. They are falling asleep while working such hours. They are not competent to thier ability to due thier job 100%. I've had a few gaurds say out of 14 days straight I've worked 13 doubles. This is a serious issue as for thier safety and us as Detainees in at the D.C.C. The one statment came from a Lt. whom is Lt. Barlow. Gaurds are being what the Department calls as a Freeze, they are made to stay on work over-time. This calls for some gaurds to take thier Frustration out on us as inmates, seen this in several matters.

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Cont. 5

5th claim Disciplinary Procedural: As for the disciplinary process here in the S.H.U., I've been sent to I.S.O. two different times, and never had a Hearing for the infraction until after I was in I.S.O. for a period of time. The Hearing Officer whom is Lt. Savage comes to here the write after you've been in I.S.O. for 15 days and says how do you plead. No matter if you plead not guilty you've already ~~served~~ served the 15 days. He finds you guilty everytime. There is to much discreasion between all of this. There is only him to make a desicion of guilt or not guilty. There no justice as for a vote 1-2 or 2-1.

Note:

I have all dockuments whom, when, why, where, and how all in appx. 24 pgs. of my claims here'in. This will all have to be presented at a later date as to the outcome of this Honorable courts desision.

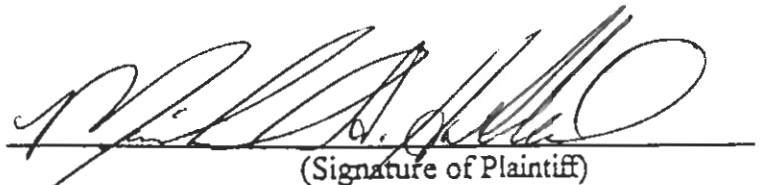
% Newton is a nickname found out after all the copies was made out. His real name is James Gardels, all above named %'s work Bld. 18 SHU. 5 days a week 8-4 shift.

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.)

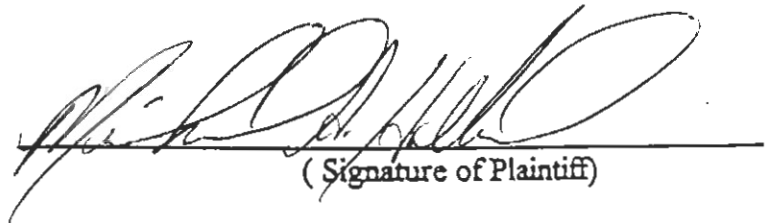
I would like for this court to except this
matter as a serious issue on my behalf as for
my Constitutional Rights and my treatment as a
Detainee in the Delaware Correctional Center, so
I can proceed with this issue in other actions.

Signed this 13 day of March, 2005


(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

3-13-05
Date


(Signature of Plaintiff)

DELAWARE CORRECTIONAL CENTER

Pre-Trial Detainees'

Bld 18 D-Block

Plaintiffs

Petition

) Deputy Warden Pierce
) Deputy Warden Betty Burris
) Major ED HOLMAN
) Captain Segars
) Defendants
) D.O.C.

Comes now Petitioners Below

| | |
|-------------------------------------|------------------------|
| D-L-1 Michael A. Holland | D-U-1 Alex H. S. |
| D-L-2 Michael A. Holland | D-U-2 Keith S. H. |
| D-L-3 | D-U-3 Michael Mantey |
| D-L-4 Duwayne C. Brinkley | D-U-4 Abraham Waterman |
| D-L-5 Michael A. Holland | D-U-5 Stephen Webb |
| D-L-6 | D-U-6 |
| D-L-7 Kenneth Holland | D-U-7 |
| D-L-8 ple. Heise | D-U-8 DAVID STEVENSON |
| D-L-9 Michael A. Holland | D-U-9 |
| D-L-10 J. Page | D-U-10 |
| D-L-11 | D-U-11 |
| D-L-12 H. Jones | D-U-12 |

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Comes Now the Detainees of the S.H.U. whom are Pre-Trial Detainees; Not found guilty of any crime. We are being held awaiting trial or other legal matters, on our behalf. A Pre-Trial Detainee is entitled to protection from cruel and unusual punishment, as a matter of Due Process and where relevant, equal protection. Equal Protection and Due Process provisions prevent unjustifiable confinement of Pre-Trial Detainees' under worst conditions than convicted prisoners. (U.S.C.A. 5.) Inadequate resources can never be an adequate justification for states' depriving any person of his/her constitutional rights. Pre-Trial Detainees' Do NOT stand on the same "footing" as convicted prisoners. Detainees' are not to be subjected to any hardship except those absolutely requisite for the purpose of confinement only, and they retain all the rights of any ordinary citizen, except to come and go as they please. (Otherwise) their confinement denies them the equal protection of the Laws. Maximum Security confinement constitutes cruel and unusual punishment. In those cases Maximum Security is not required. (Detainees') If the state cannot obtain the resources to (Detain) persons awaiting Trial or other legal matters in accordance within minimum constitutional standards, than the State simply will not be permitted to Detain such persons. The Courts, of course, cannot require the voters to make available the resources needed by public officials to meet Constitutional Standards, but it can and must require the ...

release of persons held under conditions which violate their Constitutional Rights, at least where the correction of such conditions is not brought about within a reasonable time. Pre-Trial Detainees' are people, not outcasts, who are presumed to be innocent of any crime and who have rights guaranteed by the Constitution, as do we all. Over two hundred years ago, Blackstone elegantly stated that Pre-Trial (detainees') commitment are for those unable to make bail, is only for safe custody, and not for punishment: therefore in this dubious interval between the commitment and the trial, a prisoner ought to be used with the utmost humanity. This inhumane confinement is mentality disturbing. Detainees' here at Delaware Correctional Center. Two Detainees' have attempted suicide in the past, here recently. We as Detainees' are only subjected to come out of our cells three times a week for 1 hour, which leaves the remainder of our time confined to our cells. This leaves our hygiene purposes stagnated also. We are also being treated as if we have been convicted of our crimes, which we have not. Convicted prisoners have more privileges than Detainees', whom have been convicted of their crimes. As Detainees', are we not having our 5th, 8th, and 14th Amendments violated by the Dept. of Corrections? yes we are, very much so! We are only asking for what we are supposed to have by being Detainees' here at Delaware Correctional Center. Also being Denied Legal-Calls to our attorneys on 8-4 shift. Remember, we are innocent people not yet convicted of any crime. We are being treated as though we have been convicted of a crime.

As we are in an environment of Maximum Security as Detainees' we are filing this Petition for numerous reasons. We have no way of being able to move forward to progress our confinement. We are "Stagnated" here on D-Block. We have no way of being able to have the opportunity to do better as far as earn more privileges such as more than \$15.00 of commissary every other week, where as Detainees' in Bld-B Pre-Trial are able to spend \$40.00 every week. We want to be able to have the T.V.'s which when this part of the prison was built, it was designed to come with T.V's due to the confinement standards. We feel as though we are in Solitary Confinement, because I.S.O or "Hole" come out for the same amount of recreational time as we do. These inmates have committed some type of major infraction of the rules and regulations to be there. They are able to come out of the Hole or I.S.O after 15 days and be put into other housing-units and proceed to proceed with their incarceration. as where we as Detainees' can't and don't have this opportunity. We see nothing in the Housing Rules that mention Detainees' for the S.H.U., we as Detainees' are being denied requests for the things we are to have by the staff or should I say some (Staff) Correctional Officers. We only are able to get hair-cuts once a month and are not permitted to have facial hair trimmed by the barbra, staff says. We are supposed to receive razors on Tues. and Friday every week, but receive them only when staff feels so. Also we ask for Toe-Nail and Finger-nail clippers and only once

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a month are we able to receive them, as staff feels like doing that. This has been an on going issue. We receive the Grievances we file back from Grievance Officer with the issue and Capt. Segars is to resolve or deal with these matters and fails to do so. As for a Counselor we don't even see her. This is a very important matter for all Detainees' to be able to see a Counselor. Only see her once and that was to hand out Housing Rules dated Sept. 1 ~~2000~~ signed by Warden Synder, whom no longer is Warden. There are Detainees' on D-Block, S.H.U. Bld 18 whom have been here for several months without any write-ups and feel as though they have been lost in the system. Guards not following procedure "Standard" on behalf of Correctional Officers. How are we as Detainees' to follow procedure and Rules when (Staff) Correctional Officers make them up as they go. We are not able to receive any Library books or literature from Library, so we have no ~~access~~ to books to read which are donated to the inmates here at D.C.C. We have nothing to do but sit or lay in our bunks with nothing to occupy our minds. This is very unhealthy for a persons mind, "STAGNATED". So we are asking for "Relief" on our behalf as Detainees'. We are requesting that this Petition be heard by Higher Authority at the Delaware Correctional Center Smyrna, Del. We as Detainees' are being subjected to many violations on our behalf as Detainees'. We are asking for "Relief" from these violations before taking Action within the Court System on our behalf as Detainees'.....

Certificate of Service

I, See Attached, hereby certify that I have served a true and correct copy(ies) of the attached: Petition for Plaintiffs of Bld 18 S.H.U. D-Block Detainees upon the following parties, person (s):

TO: Deputy Warden Pierce
of Delaware Correctional
Center, Smyrna, Del.
19977

TO: Deputy Warden
Betty BURRIS
of Delaware Correctional
Center Smyrna, Del.
19977

TO: Major ED HOLMAN
Security Chief
of Delaware Correctional
Center Smyrna, Del.
19977

TO: Captain SEGARS
of Delaware Correctional
Center Smyrna, Del.
19977

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 4th day of March, 2005